

I. Status of the Claims

Claims 1, 4, 6-12 and 24-26 are pending in the application. Claims 2, 3, 5 and 13- 19 and 23 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Claims 20-22 were cancelled by a previous amendment, The rejection under § 112 is withdrawn. Claims 1, 4, 6-12, and 24-26 are rejected under 35 U.S.C. § 103(a).

II. Rejection Under 35 U.S.C. §103

The Examiner has rejected claims 1, 4, 6-12, 24-26 under 35 U.S.C. §103(a) as being unpatentable over Ishihara, United States Patent No. 4,974,725, in view of Bell, United States Patent No. 5,672,342 and Warberg, United States Patent No. 6,337,081. In support of these rejections, the Examiner states that Warberg shows that fibrous carriers are known such that an artisan could apply this knowledge to Ishihara in order to optimize odor retention. The Examiner further states that, although no liquid animal product is disclosed by Ishihara, Bell is seen to provide the animal product claimed, as Bell's urine functions as an attractant applicable to Ishihara's granular carrier. The Examiner states that although Bell merely collects urine, one skilled in the art would know to use the Bell product in connection with the Ishihara device. In addition, the variable forms of Ishihara's carrier include a fibrous form that is shown by Warberg's odoriferous device.

Applicant respectfully disagrees with the Examiner's statements regarding the relevant features of the prior art. Applicant's claim 1 requires a device for emitting repellant odor or attractant scent comprising a closed container having odoriferous composition therein. The closed container is formed from thin sheet material which is pervious to the passage therethrough of gaseous effluent from the odoriferous composition and is impervious to passage therethrough

of liquid.

Ishihara teaches a substance container that comprises an envelope made of a synthetic resin impermeable to water but permeable to gases. *Ishihara, Col. 1, Lns. 52-57*. The envelope contains an inner bag or pouch made of a water-soluble resin film. *Id., Col. 1, Lns. 35-45*. This inner bag contains an active substance in powder form and a water absorbing synthetic resin in powder form. *Id.* The envelope has a water inlet into which water must be introduced through a water inlet means, such as a tubular water inlet or a straw, to activate the substances contained within the inner bag. *Id., Col. 3, Lns 1-8*. The water inlet closes upon removal of the water introduction means and is never permanently sealed. *Id.*

Similarly, Warberg discloses a device for repelling rodents constructed of a perforated material or cloth containing a fibrous carrier, similar to a potpourri bag. *Warberg, Col. 2, Lns. 1-5*. The container is constructed of a perforated plastic or cloth and contains a cellulose fiber, such as corn cob chips, having a fragrance oil absorbed thereon. *Id., Lns. 16-20*. The container has an opening at the top and a drawstring that is pulled closed once the container is filled to prevent removal of material. *Id.* The container does not prevent the passage of liquid therethrough.

Finally, Bell discloses a method of collecting urine from one animal. *Bell, Col. 2, Lns 28-31*. The urine is packaged and stored in a bottle having a cover or lid that is sealed with wax. *Id., Lns 39-41*. The urine collected by the method disclosed in Bell is applied to a drag line attached to a person while in contact with the ground. *Id., Lns. 32-36*. The urine on the drag line leaves a trail of animal scent and masks the human odor. *Id.*

Neither Ishihara nor Warberg disclose a permanently closed container that is pervious to the passage of gas while being impervious to the passage of liquid. The container in Ishihara is

not permanently sealed and has a structural opening for the introduction of the liquid activator. The perforated material utilized in Warberg, by its very nature, prevents Warberg from being a permanently closed container pervious to the passage of liquid. The disclosure of Bell is primarily limited to the collection and storage of urine, and the container disclosed by Bell is merely a storage container that is not used for the active functionality of the device.. Therefore, there is no teaching or suggestion in Bell as to the application and utilization of animal urine in a closed container pervious to the passage of gas and impervious to the passage of liquid, as required by the instant claims. The collected urine is utilized without a container.

Lastly, there is therefore no suggestion in any of the cited references which would provide the necessary teaching to combine the references pursuant to *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998).

III. CONCLUSION

Based on the foregoing remarks, Applicant respectfully submits that claims 1, 4, 6-12, and 24-26 are in condition for allowance. If a telephone conference would facilitate prosecution of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,

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